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August 28, 2015

**VIA E-MAIL TRANSMISSION
AND ECF FILING**

The Honorable Robert E. Gerber
United States Bankruptcy Judge
United States Bankruptcy Court
Southern District of New York
Alexander Hamilton Custom House
One Bowling Green
New York, New York 10004

**Re: In re Motors Liquidation Company, et al.
Case No. 09-50026 (REG)**

**Letter In Connection With August 31, 2015
Case Management Status Conference**

Dear Judge Gerber:

King & Spalding LLP is co-counsel with Kirkland & Ellis LLP for General Motors LLC (“**New GM**”) in the above-referenced matter. In response to your *Case Management Order Re No-Strike, No Stay, Objection, and GUC Trust Asset Pleadings*, dated August 19, 2015 [ECF No. 13383], New GM and others¹ submitted letters, and the Court thereafter scheduled a Case Management Conference for August 31, 2015 at 9:45 a.m. (“**August 31 Conference**”). We write to inform you that, since New GM submitted its August 26, 2015 letter (“**New GM Letter**”), it filed, in accordance with paragraph 18 of Your Honor’s Judgment dated June 1, 2015 (“**Judgment**”), an application (“**New GM Application**”) seeking an order directing the plaintiffs (“**Bavlsik Plaintiffs**”) to withdraw their request for punitive damages in *Bavlsik v General Motors LLC*, Case No. 13-00509 (“**Bavlsik Lawsuit**”), pending in the United States District Court for the District of Missouri (“**Missouri Court**”). The Bavlsik Lawsuit concerns a post-363 Sale accident relating to a 2003 GMC Savana van.

¹ The other written submissions were made by (a) Designated Counsel for the Economic Loss Plaintiffs; (b) Designated Counsel for the Pre-Sale Accident Plaintiffs; (c) the GUC Trust/Unitholders; (d) the States (Arizona and California); and (e) Mr. Peller on behalf of his clients.

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As described below, New GM will want to raise certain issues regarding the Bavlsik Lawsuit, as it relates to the New GM Application, at the August 31 Conference.²

First, as noted in the New GM Letter (at page 4), “the Punitive Damage Issue is raised in certain lawsuits that are coming up for trial in the very near term.” In particular, jury selection is scheduled to start in the Bavlsik Lawsuit on September 9, 2015, and the Bavlsik Plaintiffs have stated they intend to go forward and seek punitive damages notwithstanding New GM’s position that, to do so, would violate the Sale Order and Injunction. As Your Honor may recall, the punitive damages issue was fully briefed in connection with the *Walton* No Strike Motion, dated June 18, 2015, but the *Walton* plaintiffs ultimately agreed to withdraw their punitive damage demand. The punitive damage issue was also raised by a demand letter sent to the plaintiffs in *Boekamp v General Motors, LLC*, Case No. 37-2010-00069017, California Superior Court, County of San Diego, but after a month of deliberation, they too decided to withdraw their punitive damage demand. The Bavlsik Lawsuit is the next case that presents, for this Court’s determination, in the context of the Judgment procedures, the punitive damages issue.

Second, the Judgment procedures provide that the Court can rule on the New GM Application on five (5) business days’ notice. However, as noted in the New GM Letter, there are more than 80 cases that have raised the punitive damage issue (*See* Exhibit A thereto), and it is anticipated that at least some of the plaintiffs may want to submit a pleading on the punitive damages issue before it is decided by your Honor. Recognizing that, New GM proposed in the New GM Letter, that the procedures set forth in the Letter supplement the Judgment procedures (page 2, n.3). In particular, New GM proposes that, in lieu of pleadings related to specific lawsuits, a general briefing schedule be established for all open issues. And, because of more pressing time constraints, an expedited briefing schedule should be set for the punitive damages issue. *See* New GM Letter, at 4.

Third, even with the expedited briefing schedule on the punitive damages issue, it is unlikely that the punitive damages issue will be resolved in advance of the trial date currently scheduled for the Bavlsik Lawsuit. New GM will file a motion today with the Missouri Court seeking a continuance of the trial to permit Your Honor to decide the punitive damages issue. New GM will request that the Missouri Court set the hearing on the motion seeking a continuance for September 4, 2015, the date of a previously scheduled pretrial conference. Depending on what occurs at the August 31 Conference and the September 4 pretrial conference in the Missouri Court, New GM reserves the right to seek supplemental relief from Your Honor against the plaintiffs in the Bavlsik Lawsuit.

² A copy of the Notice regarding the August 31 Conference was sent by e-mail transmission to counsel for the Bavlsik Plaintiffs on Thursday, August 27, 2015. The e-mail also indicated that, because of (i) the punitive damages issue in the Bavlsik Lawsuit, (ii) such issue is raised in many other cases, and (iii) of the timing of the upcoming trial, the Bavlsik Lawsuit may be discussed at the August 31 Conference.

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Respectfully submitted,

/s/ Arthur Steinberg

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